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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 ROBERT EARLE JOHNSON,

11 Plaintiff,

12 v.

13 SARAH KARIKO, *et al.*,

14 Defendants.

CASE NO. 3:20-cv-05514-BHS-JRC

ORDER DENYING MOTION TO
SUPPLEMENT

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16 This matter is before the Court on plaintiff's motion to supplement his claims. *See* Dkt.
17 32. For the reasons discussed herein, plaintiff's motion to supplement is denied without
18 prejudice.

19 **BACKGROUND**

20 Plaintiff, a prisoner at the Coyote Ridge Corrections Center ("CRCC"), initiated this
21 matter in June 2020. *See* Dkt. 1. His complaint alleges claims under 42 U.S.C. § 1983 against
22 various Department of Corrections officials and staff. *See* Dkt. 5, at 1–5. As relevant here, he
23 alleges that a mailing price increase at CRCC violates the First, Fifth, and Fourteenth
24

Amendments. *See generally* Dkt. 5. The Court directed service of the complaint, and defendants have appeared and answered the complaint. *See* Dkts. 13, 28. No other motions than the motion to supplement are currently pending, and the deadline to complete discovery is March 15, 2021. *See* Dkt. 30.

DISCUSSION

Plaintiff states that he seeks to supplement the allegations of his complaint related to his claim about the mailing price increase at CRCC. *See* Dkt. 32. Specifically, plaintiff seeks to include “evidence of the Defendants rejecting four United States Supreme Court caselaw cases that support each claim[] before this Court”; “to request[] the Court to [en]join [CRCC] Mail Room from rejecting and confiscating any caselaw case sent through regular mail to plaintiff”; to “add Superintendent Jeff Uttech as a defendant”; and request an audit of the CRCC mail room account. Dkt. 32, at 1.

“On motion and reasonable notice, the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented. The court may permit supplementation even though the original pleading is defective in stating a claim or defense.” Fed. R. Civ. P. 15(d). Rule 15(d) supplementation does not allow the introduction of “separate, distinct and new causes of action.” *Planned Parenthood of S. Arizona v. Neely*, 130 F.3d 400, 402 (9th Cir. 1997) (internal quotation omitted).

It appears that plaintiff seeks not to supplement his mail claim (which pertains to the increase in mail prices at CRCC) but to challenge CRCC’s confiscation of legal mail, which plaintiff asserts was retaliatory. *See* Dkt. 32, at 2–3. Although these claims arise under the same amendment, they are distinct and a new cause of action.

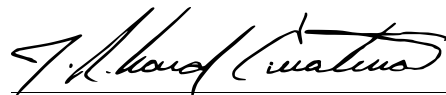
1 Therefore, the Court will construe the motion to supplement as a motion to amend the
2 complaint under Fed. R. Civ. P. 15(a). Although leave to amend under this rule is generally
3 freely given, it is important that a plaintiff comply with Local Civil Rule (“LCR”) 15. That rule
4 requires the party seeking leave to amend to “attach a copy of the proposed amended pleading as
5 an exhibit to the motion[.]” And—

6 [Plaintiff] must indicate on the proposed amended pleading how it differs from the
7 pleading that it amends by bracketing or striking through the text to be deleted and
8 underlining or highlighting the text to be added. The proposed amended pleading
must not incorporate by reference any part of the preceding pleading, including
exhibits.

9 LCR 15. Plaintiff has not complied with this requirement by providing the Court with a copy of
10 his proposed amended complaint. This requirement is important so that the Court can ascertain
11 the causes of action and amendments that are proposed, in order to determine whether the
12 amendments would be futile. *See Leadsinger, Inc. v. BMG Music Publ’g*, 512 F.3d 522, 532 (9th
13 Cir.2008).

14 Therefore, the Court denies the motion to supplement (Dkt. 32) without prejudice. This
15 means that plaintiff may refile the motion if he complies with LCR 15 and Fed. R. Civ. P. 15.

16 Dated this 16th day of December, 2020.

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20 J. Richard Creatura
21 United States Magistrate Judge
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